

Applicant : Cherif-Cheikh
Serial No.: 09/832,273
Filed : April 10, 2001
Page : 7

REMARKS

Reconsideration and withdrawal of the rejection of claims 1-5, 7 and 8 and of the objection to claim 6, in view of the remarks herein, is respectfully requested.

Claims 1-8 are listed as pending and claims 9-21 were previously withdrawn from consideration. Claims 1-5, 7 and 8 are listed as rejected. Claim 6 is listed as objected to. Applicant respectfully requests the cancellation without waiver or prejudice of claims 1-5, the amendment of claims 6-8 as indicated above and the introduction of new claims 22-25 as indicated above.

1. The Examiner objected to claim 4 under 37 C.F.R. §1.75(c) as being of improper dependent form. Applicant has obviated this objection by canceling claim 4 without waiver or prejudice. Applicant requests that this objection be withdrawn.

2. The Examiner rejected claims 1-4, 7 and 8 under the judicially-created doctrine of obviousness-type double patenting over claim 1 of U.S. Patent No. 5,695,463. Without conceding the correctness of this rejection, claims 1-4 have been canceled, without waiver or prejudice, and claims 7 and 8 have been amended so as to depend from claim 6 which adds a further distinguishable limitation, i.e. a removable cap, not present in claim 1 of U.S. Patent No. 5,695,463. Applicant submits that the aforementioned

Applicant : Cherif-Cheikh
Serial No.: 09/832,273
Filed : April 10, 2001
Page : 8

cancellations and amendments overcome the obviousness-type double patenting rejection based on U.S. Patent No. 5,695,463 and requests that same be withdrawn.

3. The Examiner rejected claim 5 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5,695,463 in view of U.S. Patent No. 5,339,170. Without conceding the appropriateness of the Examiner's rejection, Applicant has canceled claim 5 without waiver or prejudice. Applicant requests that this rejection be withdrawn.

4. The Examiner has objected to claim 6 as being dependent upon a rejected base claim. Without conceding the correctness of the Examiner's objection, Applicant has amended claim 6 as an independent claim containing each and every limitation recited in the former base claim upon which claim 6 was dependent, i.e. claim 1. Based on the foregoing, Applicant respectfully requests that this objection be withdrawn.

Applicant has added four new claims dependent upon amended claim 6 that are identical to former claims 2-5 with the exception that the new claims incorporate the further limitation that the claimed injection device include a removable cap that covers the sleeve. As stated previously, this limitation is not

Applicant : Cherif-Cheikh
Serial No.: 09/832,273
Filed : April 10, 2001
Page : 9

found in the injection device claimed in U.S. Patent No. 5,695,463. Applicant asserts that said new claims do not introduce new matter and asks that these claims be entered.

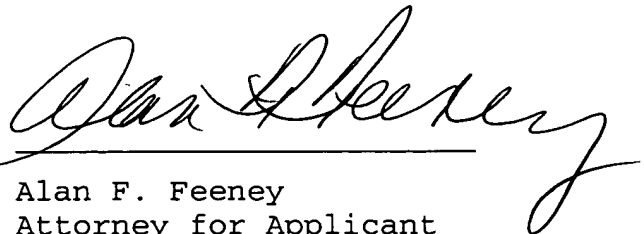
Applicant respectfully contends that claims 6-8 and 22-25 are in condition for allowance. Prompt and favorable action is solicited.

Should Examiner Lam deem any further action is required of the Applicant to place this application in a better condition for issue, she is requested to telephone the Applicant's undersigned representative.

The Commissioner hereby authorized to charge any additional fees associated with this Communication or credit any overpayment to Deposit Account No. 50-0590.

Respectfully submitted,

Date: 9-12-2003



Alan F. Feeney
Attorney for Applicant
Reg. No. 43,609

Biomeasure, Incorporated
27 Maple Street
Milford, MA 01757-3650
(508) 478-0144